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REMARKS

Claims 55-58 and 77-84 were allowed in the Office Action.

Claims 37-44 have been canceled.

35 U.S.C. §103

MPEP 706.02(j) states:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q. 1438 (Fed. Cir. 1991) (emphasis added).

Claims 37-44

Claims 37-44 have been canceled.

Nevertheless, it is noted for the record that, contrary to the statement in the Office Action, a plurality of individual clips is not and cannot be equivalent to a one-piece anastomosis device. For one reason, a plurality of individual clips creates a non-compliant anastomosis, meaning that its diameter changes as blood pulses through it. In contrast, a one-piece anastomosis device creates a noncompliant anastomosis, meaning that its diameter does not change as blood pulses through it. It is further noted for the record that the statements in the Office Action regarding claims 37-44 are expressly not acquiesced to.

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Claims 45-46, 48

Claim 45 claims an anastomosis system having two tubes, "wherein at least one of said first and second tubes is rotatable with respect to the other said tube to apply torque to said anastomosis device about its longitudinal axis." Neither U.S. Pat. No. 6,024,748 to Manzo et. al. ("Manzo") nor U.S. Pat. No. 5,833,698 to Hinchliffe et. al. ("Hinchliffe") discloses a tube rotatable relative to another tube to apply torque to an anastomosis device. Manzo instead discloses "distal advancement of pusher tube 52" to deploy a plurality of clips. (e.g., Manzo, col. 12, lines 1-10; Figure 33). Similarly, Hinchliffe instead discloses "distal advancement of drive sleeve 56" to deploy a plurality of clips. (e.g., Hinchliffe, col. 7, line 64 through col. 8, line 2). The Office Action itself does not assert that either Manzo or Hinchliffe disclose anything regarding rotation or torque.

Thus, Claim 45 is believed to be in condition for allowance. Claims 46 and 48 depend from claim 45, and are thus believed to be in condition for allowance as well under MPEP 608.01(n)(III).

REQUEST FOR ALLOWANCE

Allowance of the pending claims is respectfully solicited. Please contact the undersigned if there are any questions.

Respectfully submitted,



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